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L.P.; BESTBUY.COM, LLC

Additional Counsel Listed Below

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Master File No. 3:07-cv-05944-SC
MDL No. 1917

This Document Relates to:

Best Buy Co. Inc. et al. v. Hitachi, Ltd. et al.,
No. 3:11-cv-05513-SC

ViewSonic Corp. v. Chunghwa Picture Tubes,
Ltd. et al., No. 3:14-cv-02510-SC

The Honorable Samuel Conti

**DECLARATION OF LUCAS A.
MESSENGER IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE DOCUMENTS
UNDER SEAL PURSUANT TO CIVIL
LOCAL RULES 7-11 AND 79-5**

1 I, Lucas A. Messenger, declare and state as follows:

2 1. I am admitted to practice before this Court and am an associate with the law firm
3 of Robins Kaplan LLP, counsel for Plaintiffs Best Buy Co., Inc., Best Buy Purchasing LLC, Best
4 Buy Enterprise Services, Inc., Best Buy Stores, L.P., and Bestbuy.com, L.L.C. in the above-
5 captioned action currently pending in the United States District Court for the Northern District of
6 California. I make this declaration pursuant to L.R. 79-5 in support of PLAINTIFFS'
7 ADMINISTRATIVE MOTION TO FILE DOCUMENTS UNDER SEAL PURSUANT TO
8 CIVIL LOCAL RULES 7-11 AND 79-5. The facts set forth herein are true of my own personal
9 knowledge, except where based on a review of the pleadings and records in this action, and, if
10 called as a witness, I could and would competently testify thereto.

11 2. Through this Motion, Plaintiffs Best Buy¹ and ViewSonic Corporation
12 (collectively, "Plaintiffs") seek permission to file under seal portions of their OPPOSITION TO
13 CHUNGHWA PICTURE TUBES, LTD. AND CHUNGHWA PICTURE TUBES (MALAYSIA)
14 SDN. BHD.'S MOTION IN LIMINE TO EXCLUDE OPINIONS REGARDING ACTUAL
15 DAMAGES ATTRIBUTABLE TO THE CHUNGHWA DEFENDANTS (the "Opposition") on
16 pages 1-6, 8-11, 13, and 15, as well as the entirety of Exhibits A-C and G-M to the Declaration of
17 Lucas A. Messenger filed in support of the Opposition (respectively, the "Messenger
18 Declaration" and "Messenger Exhibits"). Plaintiffs also request an order permitting them to file
19 under seal portions of the Declaration of Alan S. Frankel filed in support of the Opposition (the
20 "Frankel Declaration") on pages 1-4, as well as the entirety of Exhibits A-C (together with the
21 Messenger Exhibits, the "Designated Exhibits").

22 Portions of the Opposition on pages 1-6, 8-13, and 15, the Frankel Declaration on pages 1-4, and
23 the entirety of the Designated Exhibits contain excerpts from and/or statements derived from
24 documents and testimony which have been designated "confidential" or "highly confidential"
25 pursuant to the Stipulated Protective Order entered on June 18, 2008 by the Court *In re Cathode*
26 *Ray Tube (CRT) Antitrust Litig.*, Case No. 07-5944-SC (MDL No. 1917), in the United States

27 ¹ "Best Buy" consists of Best Buy Co., Inc., Best Buy Purchasing LLC, Best Buy Enterprise
28 Services, Inc., Best Buy Stores, L.P., and Bestbuy.com, L.L.C.

District Court for the Northern District of California, San Francisco Division (“CRT Antitrust MDL”). (MDL Docket No. 306). The confidential/highly confidential designations were made by certain parties in the CRT Antitrust MDL. To qualify as confidential or highly confidential under the Stipulated Protective Order, the information must contain trade secrets or other confidential research, development or commercial information or private or competitively sensitive information. (Stipulated Protective Order ¶ 1.)

3. Paragraph 10 of the Stipulated Protective Order requires that a party may not file any confidential material in the public record. Paragraphs 1 and 10 of the Stipulated Protective Order further provide that any party seeking to file any confidential material under seal must comply with Civil Local Rule 79-5.

4. Portions of the Opposition and the Frankel Declaration, as well as the entirety of the Designated Exhibits, contain such confidential material and, pursuant to Local Rule 79-5(e), Plaintiffs seek to submit the above material under seal in good faith in order to comply with the Protective Order in the *CRT Antitrust MDL* and the applicable Local Rules. Specifically:

5. Pages 1-6, 8-11, 13, and 15 of the Opposition contain information that refers, contains, and/or reflects excerpts of documents and testimony that have been designated as “confidential” or “highly confidential” pursuant to the Stipulated Protective Order.

6. Pages 1-4 of the Frankel Declaration contain information that refers, contains, and/or reflects excerpts of documents and testimony that have been designated as “confidential” or “highly confidential” pursuant to the Stipulated Protective Order.

7. Exhibit A to the Messenger Declaration is a true and correct copy of excerpts from the deposition of Alan S. Frankel taken on July 10, 2014, which is designated as “Highly Confidential.”

8. Exhibit B to the Messenger Declaration is a true and correct copy of the expert report submitted by Plaintiffs’ expert witness Dr. James T. McClave on April 15, 2014, which is designated as “Highly Confidential” and contains and/or reflect information that has been designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.

9. Exhibit C to the Messenger Declaration is a true and correct copy of the rebuttal report submitted by Dr. McClave on September 26, 2014, which is designated as “Highly Confidential” and contains and/or reflect information that has been designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.

10. Exhibit G to the Messenger Declaration is a true and correct copy of the expert report submitted by Plaintiffs’ expert Dr. Alan S. Frankel on April 15, 2014 on behalf of Best Buy (the “Best Buy Report”), which is designated as “Highly Confidential” and contains and/or reflects information that has been designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.

11. Exhibit H to the Messenger Declaration is a true and correct copy of the errata to the Best Buy Report submitted by Dr. Frankel on April 28, 2014, which is designated as “Highly Confidential” and contains and/or reflects information that has been designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.

12. Exhibit I to the Messenger Declaration is a true and correct copy of the expert report submitted by Plaintiffs’ expert Dr. Frankel on June 6, 2014 on behalf of ViewSonic (the “ViewSonic Report”), which is designated as “Highly Confidential” and contains and/or reflects information that has been designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.

13. Exhibit J to the Messenger Declaration is a true and correct copy of the supplemental report submitted by Dr. Frankel on June 30, 2014 on behalf of Best Buy, which is designated as “Highly Confidential” and contains and/or reflects information that has been designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.

14. Exhibit K to the Messenger Declaration is a true and correct copy of the supplemental report submitted by Dr. Frankel on September 26, 2014, on behalf of ViewSonic, which is designated as “Highly Confidential” and contains and/or reflects information that has been designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.

1 15. Exhibit L to the Messenger Declaration is a true and correct copy of the rebuttal
2 report submitted by Dr. Frankel on September 26, 2014 on behalf of Best Buy, which is
3 designated as “Highly Confidential” and contains and/or reflects information that has been
4 designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective
5 Order.

6 16. Exhibit M to the Messenger Declaration is a true and correct copy of the rebuttal
7 report submitted by Dr. Frankel on September 26, 2014 on behalf of ViewSonic, which is
8 designated as “Highly Confidential” and contains and/or reflects information that has been
9 designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective
10 Order.

11 17. Exhibit A to the Frankel Declaration is a true and correct copy of a table prepared
12 by Dr. Frankel on behalf of Best Buy reflecting damages attributable to Chunghwa for Best Buy’s
13 indirect purchases of CRT Monitors , which contains and/or reflects information that has been
14 designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective
15 Order.

16 18. Exhibit B to the Frankel Declaration is a true and correct copy of a table prepared
17 by Dr. Frankel on behalf of Best Buy reflecting damages attributable to Chunghwa for Best Buy’s
18 indirect purchases of CRT televisions, which contains and/or reflects information that has been
19 designated as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective
20 Order.

21 19. Exhibit C to the Frankel Declaration is a true and correct copy of a table prepared
22 by Dr. Frankel on behalf of ViewSonic reflecting damages attributable to Chunghwa for
23 unallocated direct purchases, which contains and/or reflects information that has been designated
24 as “Confidential” or “Highly Confidential” pursuant to the Stipulated Protective Order.
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1 I declare under penalty of perjury under the laws of the United States of America and the
2 State of California that the foregoing is true and correct.

3 Executed this 27th day of February 2015 in Los Angeles, California.

4 /s/ Lucas A. Messenger

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ROBINS KAPLAN LLP
ATTORNEYS AT LAW
LOS ANGELES